

**UNITED STATES
ENVIRONMENTAL PROTECTION AGENCY
REGION 8**

Docket No. FIFRA-08-2003-0009

IN THE MATTER OF:

Angelo Palombo,
d/b/a MJ Farms, Inc.
8356 Syracuse
Commerce City, Colorado 80022,

Respondent.

CONSENT AGREEMENT

Complainant, United States Environmental Protection Agency, Region VIII ("EPA"), and Angelo Palombo, d/b/a MJ Farms, Inc. ("Respondent"), by their undersigned representative(s), hereby consent and agree as follows:

I. PRELIMINARY STATEMENT

1. This matter is subject to 40 C.F.R. Part 22. This Consent Agreement is entered into by the parties for the purpose of concluding this matter, as provided for in 40 C.F.R. section 22.18(b)(2).
2. The Complaint filed in this matter alleges that Respondent failed to display specific pesticide application information and failed to display specific emergency medical information, as required by the Worker Protection Standard ("WPS"), codified in 40 C.F.R. part 170, in violation of

section 12(a)(2)(G) of FIFRA, 7 U.S.C. section 136j(a)(2)(G).

3. This Consent Agreement applies to and is binding upon EPA and upon Respondent, and Respondent's officers, directors, employees, agents, successors and assigns. Any change in the constitution of Respondent including, but not limited to, any transfer of assets or real or personal property shall not alter Respondent's responsibilities under this Agreement.
4. Respondent waives its right to a hearing on any issue of law or fact set forth in this Pleading.
5. Respondent admits the jurisdictional allegations and the specific factual stipulations contained herein.

II. FACTUAL STIPULATIONS

6. Respondent admits to the following factual stipulations:
 - (a) Respondent applied pesticides on 11 separate occasions between July, 15, 2002, and August 1, 2002.
 - (b) Respondent failed to comply with the Worker Protection Standard in each instance when the applications referenced in paragraph 6(a) were made. Specifically, Respondent failed to display specific pesticide application information, as required by 40 C.F.R. section 170.122, and failed to display specific

emergency medical care information, as required by 40 C.F.R. section 170.135(c).

- (c) Respondent's failure to comply with the Worker Protection Standard, described in paragraphs 6(a) and (b) above, resulted in 22 violations of FIFRA 12(a)(2)(G), 7 U.S.C. section 136j(a)(2)(G).

III. TERMS OF SETTLEMENT

7. The Complaint filed in this matter proposed a higher penalty assessment than the amount agreed to herein. For good cause shown, specifically, Respondent inability to pay the proposed penalty stated in the Complaint, and for the purposes of settlement, Complainant agrees to reduce the penalty proposed in the Complaint to ONE HUNDRED DOLLARS (\$100.00).
8. Respondent consents to the issuance of a Final Order which incorporates the terms and conditions of this Consent Agreement, and to pay the civil penalty set forth in Paragraph 8 below.
9. Respondent agrees to pay a penalty in the amount of ONE HUNDRED DOLLARS (\$100.00).
10. Respondent agrees to pay the above stated penalty amount on or before January 30, 2004. This payment shall be made by

remitting a cashier's or certified check for that amount,
payable to "Treasurer, United States of America," to:

Mellon Bank
EPA Region 8
(Regional Hearing Clerk)
P.O. Box 360859
Pittsburgh, PA. 15251-6859

The check shall reference the name and address of
Respondent's facility and the EPA docket number (Docket No.
FIFRA-08-2003-0009) of this action. A copy of the check
shall be sent simultaneously to:

Tim Osag
Technical Enforcement Program (8ENF-T)
U.S. EPA Region VIII
999 18th Street, Suite 300
Denver, Colorado 80202-2466

11. Respondent agrees and consents that if Respondent fails to
pay the penalty amount on the due date set forth in
paragraph nine (9) above, interest on the penalty amount or
any unpaid balance shall accrue at a rate established by the
Secretary of the Treasury pursuant to 31 U.S.C. § 3717. A
late payment charge of twenty dollars (\$20.00) shall be
imposed after the first 30 days that the payment, or any
portion thereof, is overdue, with an additional charge of
ten dollars (\$10.00) imposed for each subsequent 30-day
period until the payment due is made. In addition, a six
percent (6%) per annum penalty shall be applied on any

principal amount not paid by the due date set forth in Paragraph 9 above.

12. This Agreement shall not relieve Respondent of its obligation to comply with all applicable provisions of federal, state or local law.
13. This Consent Agreement, upon incorporation into a Final Order by the Regional Judicial Officer and full satisfaction by the parties, shall be a complete, full and final settlement of the specific violations alleged in the Complaint filed in this matter.
14. Each undersigned representative of the Parties to this Consent Agreement certifies that he or she is fully authorized by the party represented to bind the parties to the terms and conditions of this Pleading and to execute and legally bind that party to this Pleading.
15. Each party shall bear its own costs and attorneys fees in connection with all issues associated with this Pleading.

IN THE MATTER OF: Angelo Palombo, d/b/a MJ Farms, Inc.,
Docket No. FIFRA-08-2003-0009

UNITED STATES ENVIRONMENTAL PROTECTION
AGENCY, REGION 8,
OFFICE OF ENFORCEMENT, COMPLIANCE, AND
ENVIRONMENTAL JUSTICE,

Complainant.

Date: _____ By: _____
Michael T. Risner, Director
David J. Janik, Supervisory
Enforcement Attorney
Legal Enforcement Program

Date: _____ By: _____
Elisabeth Evans, Director
Technical Enforcement Program

Date: _____ By: _____
Eduardo Quintana
Enforcement Attorney
Legal Enforcement Program
Phone: (303)-312-6924
FAX: (303) 312-6953

IN THE MATTER OF: Angelo Palombo, d/b/a MJ Farms, Inc.,
Docket No. FIFRA-08-2003-0009

Angelo Palombo, d/b/a MJ Farms, Inc.,
Respondent.

Date: _____ By: _____
NAME: Angelo Palombo
TITLE: President, MJ Farms, Inc., Inc.

**UNITED STATES
ENVIRONMENTAL PROTECTION AGENCY
REGION 8**

Docket No. FIFRA-08-2003-0009

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IN THE MATTER OF:)	
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)	
Angelo Palombo,)	FINAL ORDER
d/b/a MJ Farms, Inc.)	
8356 Syracuse)	
Commerce City, Colorado 80022,)	
)	
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)	
RESPONDENT)	
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Pursuant to 40 C.F.R. § 22.18(c) of EPA's Consolidated Rules of Practice, the Consent Agreement resolving this matter is hereby approved and incorporated by reference into this Consent Order. The Respondent is hereby ORDERED to comply with all of the terms of the Consent Agreement, effective immediately upon receipt by Respondent of this Consent Agreement and Consent Order.

So ORDERED, this 22nd day of December, 2003.

SIGNED

Alfred C. Smith
Regional Judicial Officer

CERTIFICATE OF SERVICE

_____ I certify that the attached Document was filed with the Regional Hearing Clerk on 12/22/03.

Further, the undersigned certifies that a true and correct copy of the document was delivered to Eduardo Quintana, Enforcement Attorney, U.S. EPA - Region VIII, 999 18th Street, Suite 300, Denver, CO 80202-2405. True and correct copies of the aforementioned document was placed in the United States mail to:

Susan L. Biro
Chief Administrative Law Judge.
Office of Administrative Law Judges
Mail Code 1900L
1200 Pennsylvania Ave., N.W.
Washington, DC 20460-2001

And Respondent: Angelo Palombo
MJ Farms
8356 Syracuse
Commerce City, CO 80022

Respondents: Larry M. Snyder, Esq.
Attorney 3300 East First Ave., Ste. 690
Denver, CO 80202-5809

Dec. 22, 2003

SIGNED
Eduardo J. Perez

**THIS DOCUMENT WAS FILED IN THE REGIONAL HEARING CLERK'S OFFICE
ON DECEMBER 22, 2003.**